

REMARKS

In the Office Action mailed January 28, 2008, the Examiner rejected Claims 1 through 9.

Applicant has thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the reference cited therein. The following remarks are believed to be fully responsive to the Office Action and, when coupled with the amendments made herein, are believed to render all claims at issue patentably distinguishable over the cited references.

Claim 6 is amended herein. No claim is cancelled. No claim is added. Accordingly, Claims 1 through 9 remain pending.

All the changes are made for clarification and are based on the application and drawings as originally filed. It is respectfully submitted that no new matter is added.

Applicant respectfully requests reconsideration in light of the above amendments and the following remarks.

CLAIM REJECTIONS – 35 USC SECTION 112

The Examiner rejected Claim 6 insofar as the phrase "other such drawstring elements" renders the claims indefinite. Applicant has cancelled the language "such as a pulley or other such drawstring elements" thus rendering this rejection moot.

Reconsideration and withdrawal of this rejection is respectfully requested.

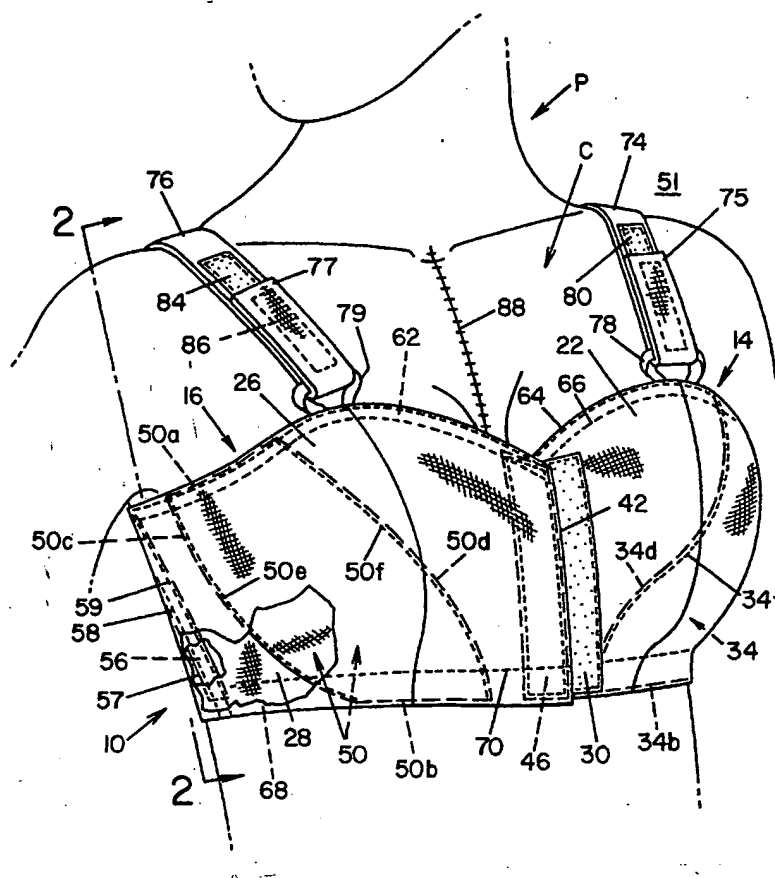
CLAIM REJECTIONS – 35 USC SECTION 103

1. Claims 1 through 7 and 9

The Examiner rejected Claims 1 through 7 and 9 under 35 USC Section 103(a) as being unpatentable over Johnstone (USPN 5,538,502 [hereinafter referred to as the '502 patent]) in view of Danzger (USPN 5,503,620 [hereinafter referred to as the '620 patent]). Applicant respectfully traverses this rejection.

Applicant respectfully submits that the explanation of the '502 reference provided in the Office Action is not supported by the reference. Particularly, the Examiner construed the means (68, 62, 46, 30) in the '502 reference as providing means for manually varying the tension of the band as used in the chest support of Claim 1. However, Applicant respectfully submits that none of the means in the '502 reference is suitable for this purpose for the following reasons.

Means 62 and 68 of the '502 reference are a top strip and a bottom strip, respectively, of elastic material. In Figure 1 of the '502 reference (provided for reference herein) means 62 and 68 are shown by means of dashed lines which indicate that these means are not provided on the surface of the disclosed surgical chest dressing as illustrated. Indeed, Figure 2 shows that means 62 and 68 are in contact with the depicted patient's breasts. Accordingly, means 62 and 68 of the '502 reference cannot be manually manipulated. Thus the means 62 and 68 of the '502 reference are not means for manually varying the tension of the band as used in the chest support of Claim 1.



Likewise, fastener components 30 and 46 of the '502 reference cannot be construed as means for manually varying the tension of the band according to the present invention. This is because components 30 and 46 are in the form of hook-and-loop fasteners used to fasten the dressing together. The dressing in the '502 reference is shaped for components 30 and 46 to be placed between the patient's breasts. Furthermore, if fastener components 30 and 46 were pulled, they would cause opening of the dressing which would release the tension, not vary it. Thus they are not means for manually varying the tension.

It is noted that at column 2, lines 41 – 43, it is stated that an object of the '502 reference to provide a surgical chest dressing which substantially immobilizes the breasts of the wearer. Thus Applicant respectfully submits that

the '502 actually teaches away from the use of means for manually varying the tension of the band. This is because such means would affect the position of the breasts of the wearer such that they were not immobilized. Also the '502 reference teaches away from increasing the tension of the band at column 1, lines 49 – 53 because of discomfort to the wearer.

The Examiner also raised the objection that the feature of Claim 4 is known from the '502 reference because the loop 79 or ends 42 and 29 in the chest dress of the '502 reference can be used as grips for manually varying the tension of the chest dressing. Applicant respectfully traverses this objection for the following reasons.

As described at column 5, lines 16 – 65, loops 78 and 79 are provided on the top edge 33 of the dressing so that shoulder straps 74 and 76 can be used to provide additional support to the dressing. This is because shoulder straps 74 and 76 are inserted through loops 78 and 79, pulled snug and folded over so that the hook-and-loop fasteners will hold the strap in this orientation (see column 5, lines 59 – 62). Thus it can be seen that loops 78 and 79 are not grips for manually varying the tension of a dressing.

Features 42 and 29 of the '502 reference are the edges of the dressing (see column 5, lines 44 and 46). As such, they are neither handles nor grips for manually varying the tension of the dressing.

The Examiner objected that the feature of Claim 6 is known from the '502 reference and alleges that the chest dressing disclosed in the '502 reference is not provided with mechanical moving parts. However, the handle 79 shown in

Figure 4 is represented as a mechanical moving part together with the shoulder straps 74 and 76. This is because when shoulder straps 74 and 76 are inserted through loops 78 and 79, pulled snug and folded over, the loops act as mechanically moving parts. Thus the chest dressing of the '502 reference comprises mechanical moving parts as defined in the present invention.

The Examiner objected that the method of Claim 9 is known from the '502 reference. The Examiner referred to the passage at column 2, lines 1 through 5 of the '502 reference as disclosing this method. This passage states

"in accordance with the invention, a surgical chest dressing is formed of a chest encircling flexible band of stretchable material having two substantially non-stretchable portions included therein and two free ends which are attachable to one another."

It can be seen that this passage makes no reference to a method including the step of increasing or decreasing the tension of the band by applying pressure to the means for manually varying the tension of the band. It is respectfully submitted that the '502 reference teaches away from the method of Claim 9 because he states at column 2, line 48 that the disclose surgical chest dressing immobilizes the breasts of the wearer and at column 2, lin32 7 – 8, that the chest dressing dies not stress an incision located between a patient's breasts. Also the '502 reference teaches away from increasing the tension of the band at column 1, lines 49 – 53, because of discomfort to the wearer. On this basis, it is clear that the '502 reference teaches a table chest dressing which is not designed to have the tension of its band increased or decreased.

Thus, in determining the scope and contents of the '502 reference, it should be understood that the chest dressing of the '502 reference:

- (1) does *not* comprise means for manually varying the tension of the band according to the invention (Claim 1);
- (2) does *not* comprise means for manually varying the tension of the band wholly or partially concealed in the pockets (Claim 1);
- (3) does *not* comprise handles or grips for manually varying the tension of the dressing (Claim 4);
- (4) comprises mechanical moving parts (Claim 6); and
- (5) does *not* disclose a step of increasing or decreasing the tension of the band by applying pressure to the mans for manually varying the tension of the band (Claim 9).

In view of these differences, Applicant respectfully traverses the Examiner's objection that the '502 reference discloses all but one of the features of Claim 1, namely that the means for manually varying the tension of the band are wholly or partially concealed in pockets. Moreover, a person of skill in the art would not find in the '502 reference or in the '620 reference the missing teaching to arrive at the post-operative chest support of the invention as presently claimed.

The '620 reference relates to a back support belt apparatus. It has a secondary tensioning belt to enable proper tensioning of the support belt. It is respectfully submitted that there would be no motivation for a person skilled in the art to combine the teaching of the '620 reference with that of the '502 reference. This is because the surgical chest dressing of the '502 reference is designed to support and substantially immobilize the patient's side and breast tissue to minimize stress on a sutured incision. Such a dressing is unrelated to

the back support belt of the '620 reference as it serves a completely different purpose. Accordingly the teachings of these two documents are not compatible.

Assuming for the sake of argument that a person skilled in the art would combine the teachings of the '502 and '620 references, this person would not arrive at the present invention. This is because the '620 reference does not teach the features listed above which are missing from the '502 reference.

The Examiner argued that the '620 reference discloses means for manually varying the tension of the band wholly or partially concealed in the pockets. Applicant respectfully submits that this determination of the scope and content of the '620 reference is not correct. Features 98, 100, 102 and 104 of the tensioning belt 14 of the '620 reference are described at column 4, lines 64 – 67 as spaced strips of elastic material which overlies the tensioning belt portion 70 and the color indicator band 96. Neither the tensioning belt portion 70 nor the color indicator band 96 are means for the tensioning belt 14 as described at column 6, lines 16 – 24. Accordingly, features 98, 100, 102 and 104 of the tensioning belt 14 are not pockets for wholly or partially concealing means for manually varying the tension of the band.

Accordingly, it is respectfully submitted that Claims 1 through 7 and 9 are non-obvious over a combination of the disclosures of the '502 and '620 references. Reconsideration and withdrawal of the rejection of Claims 1 through 7 and 9 under 35 U.S.C. Section 103(a) are respectfully requested.

2. Claim 8

The Examiner rejected Claim 8 under 35 USC Section 103(a) as being unpatentable over the '502 reference in view of the '620 reference and further in view of the patent to Fletcher (USPN 4,630,610 [hereinafter referred to as the '610 reference]). Applicant respectfully traverses this rejection.

Particularly, the Examiner argued that the subject matter of Claim 1 is substantially disclosed in the '502 and '620 references. Applicant respectfully traverses this particular argument for the reasons set out above. Applicant argued against the combination of the '502 and '620 references in the amendment of November 5, 2007. Applicant respectfully observes that the Examiner has not commented on these arguments in the present Office Action. These arguments apply equally to the combination of the '502, '620 and '610 references. Furthermore, one skilled in the art would not have combined the teaching of the '620 reference to the teachings of the '502 and '610 references because the teachings of the '620 reference are unrelated to either the '502 reference or to the '610 reference.

Accordingly, it is respectfully submitted that Claim 8 is non-obvious over a combination of the disclosures of the '502, '620 and '610 references. Reconsideration and withdrawal of the rejection of Claim 8 under 35 U.S.C. Section 103(a) are respectfully requested.

CONCLUSION

Applicant respectfully submits that all pending claims as currently presented are in condition for allowance.

Applicant respectfully requests that a Notice of Allowance be issued in this case.



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